



# **2004 Kansas State Plan**

**HELP AMERICA VOTE ACT OF 2002**

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## A MESSAGE FROM THE SECRETARY

The Help America Vote Act of 2002 (HAVA) is the United States Congress' response to the problems which occurred during the 2000 presidential election. HAVA is a broad federal law that requires change in almost every area of the voting process. As Kansas' chief election official, I am responsible for ensuring the new requirements are carried out and correctly implemented in our state.

By 2006, Kansas elections will look significantly different than they do today. Over the next few years, there will be numerous changes behind the scenes, as well as at polling places. Significant changes will include new training and education programs for election officials and a statewide computerized voter registration system. In addition, accessible voting equipment will be implemented in every polling place, allowing individuals with disabilities to cast an independent vote. We are working to ensure that our state has the most technologically advanced systems and highly trained workers at every polling place. The new mandates will make Kansas' electoral system more uniform and secure.

This document is our roadmap for implementation of the HAVA requirements in Kansas. The plan has been developed with assistance from the Kansas Election Reform Advisory Council, a group of Kansans from across the state who are committed to making our electoral process a model of excellence. It is a living document that will be reviewed, updated and published annually with assistance from the advisory council and all interested Kansans.

Comments regarding implementation of HAVA mandates are valued and welcome at any time. As the least complicated, most accessible agency in state government, we are always interested in your questions and concerns.

Sincerely,  
RON THORNBURGH  
Secretary of State

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▪ **Overview of Kansas Elections**

**Statutory and Administrative Framework**

Kansas election laws are shaped by the Kansas Legislature and new laws are enacted July 1 each year. State election laws are contained in Chapter 25 of the Kansas Statutes Annotated (hereinafter "KSA"). Administrative rules are promulgated by the secretary of state when authority to do so is granted by the legislature. The secretary of state does not have general administrative rule making authority.

**State and Local Roles and Responsibilities**

Day-to-day administration of elections is handled by 105 county election officers – 101 county clerks and four election commissioners. State and federal elections in Kansas are overseen by the state's chief election officer, the secretary of state. Local elections fall within each county election officer's jurisdiction.

**Voting Statistics**

- According to April 1, 2000, United States Census Bureau data, Kansas' voting age population is 1,975,425.
- In the 2002 general election, 851,968 votes were cast while 1,615,698 Kansans were registered to vote in that election.
- In the 2002 general election, 16.4 percent (139,343) of votes cast were cast before Election Day through the state's early voting program called advance voting.

**Voting Systems**

In Kansas, voting equipment is subject to a statutory certification process and must be certified before it may be purchased or used in any county. The following procedure is derived from KSA 25-1309, 25-4405, and 25-4604.

1. Manufacturers and vendors submit a written request for certification to the secretary of state, accompanied by a \$500 examination fee.
2. The equipment must be tested by an independent testing authority and a report from such must be filed with the secretary of state.
3. The secretary of state reviews the equipment to ensure that it meets the standards established by the Election Assistance Commission and the requirements of Kansas law.
4. An open meeting is conducted by the secretary of state at which the manufacturer or vendor displays the equipment and the equipment is tested.
5. The secretary of state contacts other jurisdictions in the United States that have certified and used the equipment to inquire about their experiences.
6. The secretary of state may grant temporary, conditional approval for the equipment to be used in a Kansas jurisdiction before granting final certification.
7. If the above conditions are met, the secretary of state makes the final decision whether to grant certification and informs the manufacturer and vendor of the decision in writing.

Each county selects and purchases its own system from the systems certified by the secretary of state. There are currently three types of voting systems used in Kansas: (1) direct recording electronic (DRE); (2) optical scan; and (3) hand counted ballots. The majority of counties, 81, use an optical scan system. Twenty-one counties use hand-counted ballots and three counties use direct recording electronic systems. Punch-card and lever voting systems are not used in Kansas.

**Voter Registration Systems**

Kansas law requires the secretary of state to maintain a statewide, centralized voter registration database. The database is only a repository file; each county election officer is required to submit the county's complete database on a quarterly basis (January, April, July and October). An administrative regulation, KAR 7-23-13, prescribes the formats, data fields and frequency of submission. The secretary of state never alters a record in a voter file. The county election officer has sole authority and responsibility for adding, deleting and altering voters' registration records.

- **Section 1: How will Kansas use the requirements payments to meet the requirements of title III, and if applicable, to carry out other activities to improve the administration of elections?**

**1.1: Voting System Standards Requirements – Section 301**  
**Deadline for compliance: January 1, 2006**

**Second Chance Voting (Section 301(a)(1))**

The voting systems currently used in Kansas counties include paper ballots, optical scan (central and precinct count) and DRE. The following matrix illustrates each voting system's current level of compliance with HAVA's "second chance" voting requirements. Due to the fact that the deadline for compliance with these requirements is January 1, 2006, the plans noted in the matrix are tentative.

SECTION 301(a)(1) REQUIREMENTS	Paper Ballot	Optical Scan Central Count	Optical Scan Precinct Count	DRE
Does the system permit the voter to verify (in a private and independent manner) the votes selected by the voter on the ballot before the ballot is cast and counted?	Yes	Yes	Yes	Yes
Does the system provide the voter with the opportunity (in a private and independent manner) to change the ballot or correct any error before the ballot is cast and counted (including the opportunity to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error)?	No To be fulfilled through a voter education program.*	No To be fulfilled through a voter education program.*	Yes	Yes
If the voter selects votes for more than one candidate for a single office, does the system notify the voter?	No To be fulfilled through a voter education program.*	No To be fulfilled through a voter education program.*	Yes	Yes
If the voter selects votes for more than one candidate for a single office, does the system notify the voter before the ballot is cast and counted of the effect of casting multiple votes for the office?	No To be fulfilled through a voter education program.*	No To be fulfilled through a voter education program.*	Yes	Yes
If the voter selects votes for more than one candidate for a single office, does the system provide the voter with the opportunity to correct the ballot before the ballot is cast and counted?	No A Kansas voter may receive a new ballot upon request. Notification of this opportunity to be fulfilled through a voter education program.*	No A Kansas voter may receive a new ballot upon request. Notification of this opportunity to be fulfilled through a voter education program.*	Yes	Yes

\*The secretary of state plans to develop a voter education program by January 1, 2006, to fulfill the aforementioned requirements.

### **Audit Capacity (Section 301(a)(2))**

The following matrix illustrates each voting system's current level of compliance with the 2006 audit capacity requirements. A plan to remedy the noncompliant voting systems will be devised by the secretary of state.

SECTION 301(a)(2) REQUIREMENTS	Paper Ballot	Optical Scan Central Count	Optical Scan Precinct Count	DRE
Does the system produce a permanent paper record with a manual audit capacity?	Yes	Yes	Yes	Yes
Does the system provide the voter with an opportunity to change the ballot or correct any error before the permanent paper record is produced?	Yes	Yes	Yes	Yes
Will the paper record be available as an official record for any recount conducted?	Yes	Yes	Yes	Yes

### **Accessibility for Individuals with Disabilities (Section 301(a)(3))**

HAVA requires every voting place in Kansas to have at least one direct recording electronic (DRE) voting system or other voting system equipped for individuals with disabilities by January 1, 2006. Kansas currently does not meet this requirement. The secretary of state plans to purchase one DRE for every polling place using requirements payments. Vendor(s) will be selected through a bid process. It is anticipated that counties will have the opportunity to purchase additional DRE machines under the state contract. The secretary of state plans to designate a list of approved voting systems for counties to choose from in addition to the statewide contract.

### **Alternative Language Accessibility (Section 301(a)(4))**

HAVA requires each voting system to provide alternative language accessibility pursuant to the Voting Rights Act of 1965. The current voting systems used in Kansas are capable of accommodating ballots in alternative languages.

### **Error Rates (Section 301(a)(5))**

Error rates on voting systems approved for use in Kansas have been verified by an independent testing authority and meet FEC requirements.

### **Uniform Definition of What Constitutes a Vote (Section 301(a)(6))**

We adopted standards as part of the Kansas Election Standards, developed by the Secretary of State and county election officials. Counties formally adopted the standards at the 2004 Kansas County Clerks' and Elected Officials' convention.

### **1.2: Provisional Voting Requirements – Section 302**

#### **Deadline for compliance: January 1, 2004**

Provisional voting has been part of Kansas election law since 1996.

#### **Notification of the right to cast a provisional ballot (Section 302(a)(1))**

Under current Kansas law (KSA 25-409), a poll worker is required to notify a potential voter of the right to vote a provisional ballot, if applicable. Voters are also notified of such right on the "Voter's Rights and Responsibilities" poster posted in each polling place pursuant to KSA 25-2706.

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**Affidavit for all provisional voters attesting to registration, eligibility (Section 302(a)(2))**

Approved by the Kansas Legislature as sections 1 and 2 of 2004 SB 479. Requirements payments will not be used; counties will be responsible for costs associated with producing the affidavit.

**Written information regarding how to determine the outcome of a provisional ballot (Section 302(a)(5)(A))**

Required by legislation in section 2 of 2004 SB 479. The county election official will be responsible for replication costs and training poll workers to distribute the information. In addition, instructional information about provisional ballots will be added to the secretary of state's website. It is not anticipated that requirements payments will be used.

**Free access system for publication of provisional vote results (Section 302(a)(5)(B))**

A free access system will be developed by the secretary of state for use in 2004. No expenditures of requirements payments are anticipated.

**1.3: Voting Information Requirements – Section 302**  
**Deadline for compliance: January 1, 2004**

**Public posting at polling places (Section 302(b)(2))**

- **Sample Ballot:** While it has been common practice to post sample ballots at polling places in Kansas, it is required by section 11 of 2004 SB 479. No expenditure of requirements payments will be made to produce sample ballots. County election officials will be responsible for the cost of producing and posting sample ballots in polling places.
- **Date of the election and hours the polling place is open:** Required by section 11 of 2004 SB 479. No expenditures of requirements payments are anticipated. County election officials will be responsible for posting this information at each county's expense.
- **Instructions on how to vote, including a provisional ballot:** This information will be included in the Voter's Rights and Responsibilities poster prescribed and designed by the secretary of state and posted at the polling place by county election officials. Requirements payments will be used to produce these posters.
- **Instructions for mail-in registrants who are first time voters in the jurisdiction:** Kansas law requires identification for all first-time voters in the county, whether mail registrants or not. The state has adapted the voter registration application card, the voter's rights and responsibilities poster and county election officials' and pollworkers' training programs. No expenditures of requirements payments are anticipated.
- **General information on voting rights:** This information is included on a poster entitled "Voter's Rights and Responsibilities". All polling places must display this poster in accordance with K.S.A. 25-2706. Requirements payments will be used to produce these posters.



- **General information on federal and state fraud laws:** This information will be included on a poster entitled "Voter's Rights and Responsibilities". All polling places must display this poster in accordance with K.S.A. 25-2706. Title I funding will be used to produce an updated version of the poster.

**Provisional ballots for individuals who vote pursuant to a court or other order extending polling place hours; ballots must be separated from other provisional ballots (Section 302(c))**

Provisional voting has been part of Kansas election law since 1996. No expenditures of requirements payments are anticipated.

**1.4: Computerized Statewide Voter Registration List Requirements – Section 303(a)**

**Deadline for compliance: January 1, 2004 / January 1, 2006 (with waiver)**

Kansas law (KSA 25-2304(b)) requires the secretary of state to maintain a statewide centralized voter registration database. The current database is only a repository for county voter registration data and does not appear to meet the HAVA requirements. Due to the time needed to implement the new system, the secretary of state applied for and received a waiver of the January 1, 2004, deadline as permitted by HAVA and extended the deadline to January 1, 2006.

The central voter registration subcommittee of the Kansas Election Reform Advisory Council has provided preliminary recommendations for database design. The secretary of state has contracted with a consultant, Jim Minihan of Imerge Consulting, and convened a central voter registration work group to assist with RFP development. The work group includes state and local election officials as well as individuals with information technology expertise. A vendor was selected in the summer of 2004.

Implementation of the new database system will begin in summer or early fall 2004. Each county will maintain its current database in 2005 while the new system is tested. Beginning January 1, 2006, the new database will be the sole system used statewide. Requirements payments will be used to partially fund this project.

A tentative timeline for this project is included below:

May – December 2003	RFP development
January 2004	Publish RFP
June 2004	Select vendor
June - July 2004	Contract negotiations
July 2004	Contract execution
Fall 2004	Implementation of system begins
2005	Current system and new system to run simultaneously
January 1, 2006	New system becomes the sole system used in Kansas

**1.5: Requirements for Voters Who Register by Mail – Section 303(b)**

**Deadline for compliance: January 1, 2004**

**Identification Requirements:** Kansas law was changed by 2004 SB 479 to require identification of all first-time voters in the county.

**Fail-Safe Voting:** Under HAVA, voters who register by mail and cannot meet the identification requirement must be afforded the opportunity to vote a provisional ballot. Current Kansas law allows such individuals to cast provisional ballots; therefore, Kansas is in compliance with the fail-safe voting requirement.

**Contents of Mail-In Registration Form:** Design of the Kansas voter registration application form was changed by 2004 SB 479 to comply with HAVA. The application form was revised and disseminated after final approval of legislation.

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- ***Section 2: How will Kansas distribute and monitor the distribution of the requirements payments to units of local government or other entities in Kansas for carrying out activities to improve the administration of elections?***

***2.1: Criteria to be used to determine the eligibility of units or entities for receiving the payment (Section 254(a)(2)(A))***

The secretary of state will manage all requirements payments and make expenditures to implement title III requirements. Expenditures will be made for counties (eligible units) by the state to fulfill the requirements specified by the secretary of state. Counties will be responsible for financial needs that exceed the specified requirements.

Planned expenditures of requirements payments may include the following projects: (1) a new centralized voter registration system; (2) accessible voting equipment; and (3) education and outreach programs. These projects are priorities and all other financial requests will be assessed after completion of the projects.

Eligible entities are organizations or persons with goals and objectives related to HAVA. If grants are made to eligible entities, the following criteria will be used:

- (1) The entity must submit a written proposal to the secretary of state.
- (2) The proposal must include specific performance goals for the proposed project.
- (3) The proposal must include information on how the goals will address and accomplish title III objectives.
- (4) Grants will be awarded at the discretion of the secretary of state after review of the proposal.

***2.2 : Methods to be used to monitor the performance of the units or entities to whom the payment is distributed (Section 254(a)(2)(B))***

The secretary of state will develop appropriate auditing procedures. All units or entities receiving title I or title II funds will be subject to reporting requirements established by the secretary of state. The following reports will be required of units or entities that receive grants or materials purchased with federal funds.

Units of local government:

- (1) Reporting requirements incorporated into existing reports submitted by county election officials
- (2) Annual report

Eligible entities:

- (1) Quarterly financial reports
- (2) Annual financial report
- (3) Annual performance report

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- **Section 3: How will Kansas provide programs for voter education, election official education and training, and poll worker training which will assist the state in meeting the requirements of title III?**

### **3.1: Voter Education**

Education is an essential element of HAVA implementation in Kansas. In order for the state to maximize the benefits of HAVA, we must reach out and educate Kansans. The secretary of state plans to educate the voting age population to help ensure that all Kansans comprehend new requirements and procedures through a two-fold voter education program consisting of (1) voter outreach and (2) instruction on how to vote so the vote will count. These programs will be developed by the secretary of state's staff.

#### *(1) Voter Outreach*

A statewide media campaign has been developed to encourage registration and voting before primary and general elections. The campaign may use the following media: radio, internet, television, newspaper, and direct mail. County election officials, youth voting programs, and other interested groups may play a role in this program.

Outreach material describing the voter registration process in Kansas has been developed by the secretary of state and provided to local election officials. Groups interested in voter outreach may contact the secretary of state's office and materials may be provided upon request.

Emphasis will be placed on development of an outreach initiative for citizens with disabilities. The secretary of state's office will work with advocacy groups to develop accessible resources.

Another component of this program may be expansion of Kansas' student poll worker program. The program was developed in 2000 pursuant to KSA 25-2804(b).

#### *(2) Voting Instruction*

A statewide media campaign will be developed and conducted by the secretary of state. Assistance may be provided to local interest groups. The campaign will encompass the following topics: (1) voting procedure in Kansas; (2) instructions regarding how to use each voting system; (3) reasons for provisional voting and how to cast a provisional ballot; (4) reasons for ballot invalidation; (5) accessibility of polling places and voting equipment.

The campaign will be developed with assistance from county election officials and other relevant groups. Campaign content will be designed to meet HAVA requirements and may be modeled after previous media campaigns conducted by the secretary of state's office. Media used to conduct the campaign may include the following: radio, internet, television, newspaper, and direct mail. County election officials, youth voting programs, and other interested groups may play a role in this program.

The following ideas may be incorporated in this campaign:

- Brochures and electronic advertising explaining new voting procedures and rights
- Information (printed, audio, etc.) on the DRE voting system for all Kansans, including individuals with disabilities
- A website providing one-stop information on voting procedures and rights
- A revised version of the Voter's Rights and Responsibilities poster required by KSA 25-2706
- Partnerships with public and private organizations

### 3.2: Election Official Education and Training

In order to ensure that county election officials receive the necessary education and training on election issues, the secretary of state's office developed a uniform, statewide training program. A description of the program is included below.

*Curriculum:* The annual program will be developed by the secretary of state's office with assistance from Kansas County Clerks and Election Officials Association members and adult education specialists. The secretary of state's office will seek partnerships with the Wichita State University Hugo Wall School and Emporia State University. Eight hours of required instruction was provided in 2004 and consisted of the following courses:

COURSE	HOURS
HAVA overview / NVRA refresher	1
Preparing for an election	1
Voter registration	1
Voting procedure / provisional ballots	1
Advance voting / federal services voting	1
Canvassing / write-ins / voter intent	1
Voting equipment	1
Special situations including, but not limited to, alternative languages, accessibility, awareness and sensitivity	1

*Location:* The aforementioned courses will be provided in coordination with established meetings of the Kansas County Clerks and Election Officials Association (KCCEOA) and the Kansas Association of Counties (KAC). The schedule is as follows:

MONTH	EVENT	HOURS REQUIRED
March	KCCEOA Regional Meetings	2
May	KCCEOA Convention	2
September	KCCEOA Regional Meetings	2
November	KAC Convention	2

Make-up sessions may be held at the following times and events:

MONTH	EVENT
May	KCCEOA Convention
November	KAC Convention
As scheduled	Sanborn Institute for County Clerk Certification (annual)
As necessary	Videoconference
Once every four years	Midwest Election Officials Conference

*Resources:* Participants will receive a printed training manual, an updated version of the Kansas Election Standards, and tools for training poll workers.

*Instructors:* The training program will be conducted by the secretary of state and staff, subject matter experts, and Sanborn Institute instructors.

*Attendance:* At least one individual from each county election office must attend the program consisting of eight one-hour sessions. Attendance is a condition of receiving the benefits of federal funding, and the secretary of state shall have the option of withholding county benefits related to HAVA due to nonparticipation in the training program. The curriculum and number of hours required may change from year to year.

### **3.3: Poll Worker Training**

The secretary of state designed a poll worker training program for county election officials in order to facilitate the crucial link between election administrators and voters. County election officials will receive instruction on this program during the election official training program and will be responsible for conducting training sessions at the local level. Participation in this program will be a condition for receipt of county benefits related to HAVA.

*Curriculum:* The following topics will be incorporated into training resources developed by the secretary of state's office in conjunction with adult education specialists.

- HAVA Overview/impact on election board workers
- Polling place organization and management
- Voting
- Accessibility issues
- Special situations

*Resources:* The secretary of state will provide each county election official with the following tools to be used in a local poll worker training session.

- A curriculum for training poll workers

*Instructors:* Training sessions will be conducted by each county election official and deputy election officials. Voting equipment vendors or technicians may also be involved in the training sessions. County election officials may include supplemental instructors in the training sessions at their discretion.

- *Attendance:* County election officials must conduct training prior to each primary and general election for supervising judges and election clerks as required by 2004 SB 479.

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▫ **Section 4: How will the state adopt voting system guidelines consistent with the requirements of section 301?**

The secretary of state will adopt voting system guidelines consistent with the requirements of section 301 by the January 1, 2006, deadline. An overall method of compliance is yet to be determined.

As illustrated on pages seven and eight of this document, some voting systems currently used in Kansas do not meet the requirements of section 301. Specifically, paper ballot and central count optical scan systems are noncompliant. At the present time, the secretary of state plans to resolve these compliance issues through use of a voter education program as permitted by Section 301(a)(1)(B). Use of a voter education program will permit counties to maintain paper ballot and central count optical scan systems.

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▫ **Section 5: How will Kansas establish a fund for purposes of administering the state's activities, including information on fund management?**

**5.1: Fund establishment**

During the 2002 legislative session, the secretary of state established a Democracy Fund in anticipation of receiving federal funding for HAVA implementation. Title I funds were received in April 2003 and deposited in the Democracy Fund. In early 2003 it came to the attention of the secretary of state that state accounting and reporting guidelines had changed and as a result, the Democracy Fund had been improperly coded for receipt of federal funds. A new fund, HAVA Federal Fund, was established for title I and title II funds and the money previously received was transferred to the new fund.

The following funds have been established:

- 1) HAVA Federal – established for receipt and expenditure of federal monies. Pursuant to state accounting and reporting guidelines, this fund has several accounts (indexes)
- 2) HAVA Match – established for the receipt and expenditure of matching state funds
- 3) Democracy – established for the receipt and expenditure of matching county funds

**5.2: Fund management**

The secretary of state will be responsible for fund management. State and federal fund management guidelines will be followed. Appropriate records of expenditures will be maintained by the secretary of state's office. A monthly review of funds will be made.



▫ **Section 6: Kansas' proposed budget for HAVA activities based on the state's best estimates of the costs of such activities and the amount of funds to be made available.**

The following chart is Kansas' proposed budget for state fiscal years 2004 and 2005. All amounts listed are estimates and subject to change.

HAVA Requirements	Estimated Total Cost	Funding Source					
		Title I \$5 million <sup>1</sup>	Title II \$21.4 million <sup>2</sup>	State Match \$687,397 <sup>3</sup>	County Match \$439,435 <sup>4</sup>	EAID Grant \$110,057	VOTE Grant \$100,000
Central Voter Registration System	No estimate is included here to ensure that the secretary of state may negotiate a truly competitive price for this system. We do not want vendors to assume we are prepared to pay a predetermined amount for the system. <sup>5</sup>						
Accessible voting equipment	No estimate is included here to ensure that the secretary of state may negotiate a truly competitive price for this system. We do not want vendors to assume we are prepared to pay a predetermined amount for the equipment. <sup>6</sup>						
Administrative costs	\$250,000						
Voter education	\$100,000						
CEO training	\$15,000						
Poll worker training	\$15,000						
Free access system	\$1000						
Polling place postings	\$2000						
Kansas voter registration forms	\$20,000						
Federal voter registration forms	\$5000						
Polling Place Accessibility	\$210,057						

<sup>1</sup> Kansas has received a title I payment of \$5 million.

<sup>2</sup> Kansas received the FFY 03 title II requirements payment of approximately \$7.6million and is eligible to receive the FFY 04 payment of approximately \$13.7 million. Receipt of the FFY 04 payment is contingent upon filing the state plan.

<sup>3</sup> In order to qualify for title II requirements payments, Kansas must provide five percent (5%) of the payment in matching funds. During the 2003 and 2004 Kansas Legislative Sessions, the legislature approved a match of three percent (3%) from the state general fund.

<sup>4</sup> As explained in note three, receipt of title II requirements payments is contingent upon providing state matching funds. During the 2003 and 2004 Kansas legislative sessions, the legislature specified that the remaining two percent (2%) match is to be provided by Kansas counties. Each county pays a proportionate share of the match based on a formula comparing county voting age population to state voting age population.

<sup>5</sup> The actual cost will be negotiated through a Request for Proposal process.

<sup>6</sup> The actual cost will be negotiated through a Request for Proposal process.

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- **Section 7: How will Kansas, in using the requirements payments, maintain the expenditures of the state for activities funded by the payment at a level that is not less than the level of such expenditures maintained by the state for the fiscal year ending prior to November 2000?**

In compliance with HAVA Section 254(a)(7), in using requirements payments, Kansas will maintain expenditures of the State for activities funded by the payment at a level equal to or greater than the level of Title III expenditures in State FY 2000. No reductions in state spending have been made since passage of HAVA, and none are anticipated or sought.

Elections & Legislative Matters	Fiscal Year 2000	Fiscal Year 2004
	\$ 33,735	\$ 62,129

▫ **Section 8: How will Kansas adopt performance goals and measures to determine its success and the success of units of local government in carrying out the plan?**

Performance goals and measures will be developed by the secretary of state's office for each applicable element of the state plan. Each element will have a tentative timeline for completion which will serve as a tool for assessing performance. The following charts outline tentative performance goals for implementation of HAVA requirements.

Performance Goal	Develop and implement a statewide central voter registration system
Process to develop criteria	The secretary of state's staff appointed a Central Voter Registration Work Group and consultant to help develop a Request for Proposal (RFP) and establish goals for project management
Criteria to measure performance	A set of time-oriented goals for the following events: (1) development and issuance of an RFP (2) selection of a vendor (3) contract negotiations / execution of contract (4) implementation of CVR system
Tentative Timeline	May – December 2003: RFP development January 2004: Publish RFP June - July 2004: Select vendor July 2004: Contract negotiations July 2004: Contract execution
Deadline for compliance	January 1, 2006 (with waiver)

Performance Goal	Implement one voting machine, accessible to individuals with disabilities, in every Kansas polling place
Process to develop criteria	The secretary of state's staff will plan with a work group and consultant to develop a Request for Proposal (RFP) and establish goals for project management
Criteria to measure performance	A set of time-oriented goals for the following events: (1) development and issuance of an RFP (2) selection of a vendor(s) (3) contract negotiations / execution of contract (4) implementation of voting equipment
Tentative Timeline	2004 – 2005: RFP development/issuance and selection of vendor(s) Summer – Fall 2005: Delivery and implementation of accessible voting equipment
Deadline for compliance	January 1, 2006

Performance Goal	Implement second chance voting requirements
Process to develop criteria	The secretary of state's office will work with the Kansas Election Reform Advisory council and county election officials to develop a plan for implementation
Criteria to measure performance	A set of time-oriented goals for development of a voter education program to meet section 301(a)(1) requirements
Tentative timeline	Unknown at this time
Deadline for compliance	January 1, 2006

Performance Goal	Meet audit capacity requirements
Process to develop criteria	The secretary of state's office will work with county election officials to determine how counties with optical scan voting systems will meet the requirements
Criteria to measure performance	A set of time-oriented goals
Tentative timeline	Unknown at this time
Deadline for compliance	January 1, 2006

Performance Goal	Implement uniform definitions of what constitutes a vote for each type of voting system used in Kansas
Process to develop criteria	The secretary of state's office worked with the Election Standards Task Force to develop a proposal
Criteria to measure performance	Implementation of uniform definitions in the Kansas Election Standards
Tentative timeline	Adopted by the Kansas County Clerks' and Election Officials' Association (KCCEOA)
Deadline for compliance	January 1, 2006

Performance Goal	Implement affidavit requirement for provisional voters
Process to develop criteria	Drafted legislation
Criteria to measure performance	To codify the requirement in state election law and implement the requirement on the local level
Tentative timeline	2004 SB 479 passed
Deadline for compliance	January 1, 2004

Performance Goal	Develop and provide written information regarding how to determine the outcome of a provisional ballot
Process to develop criteria	Development of a plan for implementation by the secretary of state's office in 2003
Criteria to measure performance	A time-oriented set of goals for the following events: (1) prescribing a document with the appropriate information (2) sending the document to county election officials and providing instructions for use (3) verifying that county election officials have reproduced and distributed the documents
Tentative timeline	Document prescribed and distributed prior to August 2004. Information to be distributed to provisional voters beginning with the August 2004 primary election.
Deadline for compliance	January 1, 2004

Performance Goal	Develop a free access system for publication of provisional vote results
Process to develop criteria	The secretary of state's office worked with county election officials to develop a plan for implementation
Criteria to measure performance	Disseminated options and recommendations to CEOs in May, 2004
Tentative timeline	Plan to implement the system during the August 2004 primary election
Deadline for compliance	January 1, 2004

Performance Goal	Implement required public posting at polling places
Process to develop criteria	The secretary of state's office developed a plan for implementation in 2003
Criteria to measure performance	To codify the requirement in state election law and implement the requirement on the local level
Tentative timeline	Passed as part of 2004 SB 479. CEO training was held in May, 2004. Posters were printed and distributed to CEOs in July, 2004. County election officials will implement the requirements in 2004.
Deadline for compliance	January 1, 2004

Performance Goal	Require provisional ballots for individuals who vote pursuant to a court or other order extending polling place hours
Process to develop criteria	The secretary of state's office developed a plan for implementation in 2003
Criteria to measure performance	To codify the requirement in state election law and implement the requirement on the local level
Tentative timeline	Required by 2004 SB 479. CEOs trained in May, 2004. County election officials will implement the requirements in 2004.
Deadline for compliance	January 1, 2004

Performance Goal	Meet the requirements for voters who register by mail
Process to develop criteria	The secretary of state's office developed a plan for implementation in 2003
Criteria to measure performance	To codify the requirement in state election law and implement the requirement on the local level
Tentative timeline	State law requires identification of all first-time voters in the county. CEOs trained in May, 2004. County election officials will implement the requirements in 2004.
Deadline for compliance	January 1, 2004

Performance Goal	Implement voter education, election official education/training, and poll worker training programs
Process to develop criteria	The secretary of state's office developed a plan for implementation with assistance from the Kansas Election Reform Advisory Council in 2003
Criteria to measure performance	A time-oriented set of goals for the following events: (1) convene a work group (2) develop the program (3) carry out the program
Tentative timeline	Implementation of the program will occur in 2004.

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▫ **Section 9: A description of the uniform, nondiscriminatory state-based administrative complaint procedure in effect under section 402.**

The following guidelines have been developed for use by the secretary of state in conjunction with the administrative complaint procedure:

1. All complaints should be addressed at county level first as the county election official is best suited to solve the problem, and will likely solve the problem faster than a state-based complaint process.
2. A brochure/booklet will be created outlining the administrative grievance process for the public. The Secretary of State will work with various groups to construct the content and look of the brochure. (brochure will include point given above in #1.)
3. Notices, hearings, and any other procedures of the grievance process shall include any required accommodation(s).

**KANSAS SECRETARY OF STATE  
Administrative Complaint Procedure**

**Section 1. Scope.**

This act provides a uniform, nondiscriminatory administrative procedure for the resolution of any complaint alleging a violation of any provision of Title III of the "Help America Vote Act of 2002," including a violation that has occurred, is occurring, or is about to occur.

**Section 2. Definitions.**

(a) In this act, the following terms have the meanings indicated.

- (1) "Complainant" means the person who files a complaint with the Kansas secretary of state under this act.
- (2) "Respondent" means any state or local election official whose actions are asserted to be in violation of Title III in a complaint filed under this act.
- (3) "Title III" means Title III of the Help America Vote Act of 2002, Public Law 107-252, 116 Stat. 1666 (2002), codified at 42 United States Code §§15481-15485.
- (4) "Arbitrator" means a neutral third party selected by the secretary of state who resolves the dispute between the complainant and respondent, and whose decision is final.

**Section 3. Who May File.**

Any person who believes that a violation of any provision of Title III is occurring, has occurred, or is about to occur, may file a complaint.

**Section 4. Form of Complaint.**

- (a) A complaint shall be in writing and signed by the complainant under oath before a notary public.
- (b) The complaint shall be submitted on a form prescribed by the secretary of state, which shall be available from the secretary of state or from any county election office.

**Section 5. Place and Time for Filing; Copy for Respondent.**

- (a) A complaint shall be filed with the secretary of state within 30 days after the occurrence of the actions or events that form the basis for the complaint. For violations that are occurring or about to occur that may need immediate remedy, the complaint shall be timely filed to allow for resolution.
- (b) The secretary of state shall deliver a copy of the complaint to each respondent.
- (c) If the secretary of state is the respondent in the complaint, the complaint shall be filed and reviewed by the Kansas Department of Administration and all references to the secretary of state as the determinative body contained in this act shall be construed to refer to the Kansas Department of Administration.

**Section 6. Consolidation of Complaints.**

- (a) The secretary of state may consolidate complaints if they relate to the same actions or events, or if they raise common questions of law or fact.

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**Section 7. Official Record of Proceedings.**

- (a) The secretary of state shall compile and maintain an official record in connection with each complaint filed under this act.
- (b) The official record shall contain:
  - (1) A copy of the complaint, including any amendments made with the permission of the secretary of state;
  - (2) A copy of any written submission by the complainant;
  - (3) A copy of any written response by any respondent or other interested person;
  - (4) Any written report or review conducted by the secretary of state or county election officials;
  - (5) Copies of all notices and correspondence to or from secretary of state in connection with the complaint;
  - (6) Originals or copies of any tangible evidence received or considered;
  - (7) The original recording produced at any hearing conducted on the complaint, and a copy of any transcript produced on the complaint; and
  - (8) A copy of any final determination made on the complaint.

**Section 8. Hearing, Notice of Hearing.**

- (a) If requested by the complainant, the secretary of state shall conduct a hearing on the record to review the complaint. The secretary of state or other person designated by the secretary of state shall serve as the hearing officer.
- (b) The hearing shall be conducted no later than 30 days after the secretary of state receives the complaint. The secretary of state shall give at least 5 days advance notice of the date, time, and place of the hearing to the complainant and each named respondent.

**Section 9. Conduct of Hearing.**

- (a) To the extent necessary for full disclosure of all relevant facts and issues, the hearing officer shall afford all parties the opportunity to respond, present evidence and argument, and shall not be bound by the technical rules of evidence; provided, the hearing officer may place reasonable limits on the length of the hearing.
- (b) The hearing officer may at his discretion give nonparties an opportunity to present oral or written statements.
- (c) All testimony of parties and witnesses shall be made under oath or affirmation and the hearing officer shall have the power to administer an oath or affirmation for that purpose.
- (d) Any part of the evidence may be received in written form if doing so will expedite the hearing without substantial prejudice to the interests of any party.
- (e) Official notice may be taken of (1) any matter that could be judicially noticed in the courts of this state, (2) the record of other proceedings before the secretary of state, (3) technical matters within the secretary of state's specialized knowledge, and (4) codes of standards that have been adopted by an agency of the United States, of this state or of another state or by a nationally recognized organization or association.
- (f) The hearing officer may conduct all or part of the hearing by telephone or other electronic means, if each participant in the hearing has an opportunity to participate in the entire proceeding.
- (g) The hearing shall be recorded at the secretary of state's expense. The secretary of state is not required to prepare a transcript at its expense. Any party, at the party's expense, may request that the secretary of state prepare a transcript from the record, or cause additional recordings to be made during the hearing. If a transcript is produced, the secretary of state shall include a copy in the official record.
- (h) The hearing shall be open to the public, except for parts that the hearing officer rules to be closed pursuant to a provision of law expressly authorizing closure.

**Section 10. Informal Conference, Pre-hearing Conference.**

- (a) The secretary of state may conduct an informal conference to resolve the filed complaint, if both the complainant and respondent have an opportunity to participate in the proceeding.
- (b) The secretary of state may conduct a pre-hearing conference to organize issues and procedures to promote an orderly and prompt hearing.
- (c) The secretary of state shall give advance notice of the date, time, and place of any conference to the complainant and respondent.



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**Section 11. Subpoenas.**

The Secretary of State may issue subpoenas for a witness or any material that is relevant to the administration of this act.

**Section 12. Final Determination.**

(a) If there has been no hearing, the secretary of state shall review the record and determine whether a violation of Title III has been established by a preponderance of evidence. The determination of the secretary of state shall be final and shall not be subject to appeal pursuant to the Kansas Act for Judicial Review.

(b) At the conclusion of any hearing, the secretary of state shall determine whether a violation of Title III has been established by a preponderance of evidence. The determination of the secretary of state shall be final and shall not be subject to the Kansas Act for Judicial Review.

(c) If the complaint is not timely filed or if the secretary of state determines that a violation has not occurred or that there is insufficient evidence to establish a violation, the secretary of state shall dismiss the complaint.

(d) The secretary of state shall explain in a written decision the reasons for the determination and for any remedy selected.

(e) Except as specified in section 14, the final determination of the secretary of state shall be issued within 90 days after the complaint is filed, unless the complainant consents in writing to an extension. The final determination shall be mailed to the complainant and each respondent, and published on the secretary of state website.

(f) If the secretary of state cannot make a final determination within 90 days after the complaint was filed, or within any extension to which the complainant consents, the complaint shall be referred for final resolution under section 14. The record compiled pursuant to section 7 shall be made available for use under section 14.

**Section 13. Remedies.**

(a) Upon the finding of a violation, the secretary of state shall provide an appropriate remedy to resolve the grievance, which remedies may include the following:

(1) An order to any respondent commanding the respondent to take specified action, or prohibiting the respondent from taking specified action;

(2) An order directing the respondent or any employees or agents of the respondent to obtain additional training or education to prevent future violations;

(3) Any other remedy as deemed appropriate by the secretary of state to prevent or remedy the violation or future violations.

(b) The secretary of state may order either party to pay the costs of the hearing, based upon a finding by the secretary of state that the party's actions were egregious, frivolous, harassing, or were for an improper purpose.

**Section 14. Alternate Dispute Resolution.**

(a) If the secretary of state does not render a final determination within 90 days after the complaint is filed, or within any extension to which the complainant consents, the complaint shall be resolved under this section.

(b) Within five (5) days after a final determination was due, the secretary of state shall designate in writing to the complainant and the respondent the name of an arbitrator to resolve the complaint.

(c) The arbitrator may review the record compiled in connection with the complaint, including the tape recording or any transcript of a hearing and any briefs or memoranda, but shall not receive additional testimony or evidence.

(d) The arbitrator shall issue a written resolution within ten (10) days after the secretary of state's determination was due. The final resolution of the arbitrator shall be mailed to the secretary of state, the complainant, and each respondent, and published on the secretary of state website.

**Section 15.** The Secretary of State may adopt rules and regulations to administer this act.

▫ **Section 10: A description of how Kansas will use the title I payment to carry out proposed activities in this plan.**

Kansas has received \$5 million in title I payments for improvement of election administration. This funding may be used for the following approved purposes:

- (1) Complying with requirements of title III
- (2) Improving the administration of elections for federal office
- (3) Educating voters concerning voting procedures, voting rights, and voting technology
- (4) Training election officials, poll workers, and election volunteers
- (5) Developing the state plan
- (6) Improving, acquiring, leasing, modifying, or replacing voting systems and technology
- (7) Improving the accessibility of polling places
- (8) Establishing a free access system for use by voters to obtain voting information

It is expected that Kansas' title I funds will be used for the following, prioritized purposes:

- (1) Implementation of a new statewide central voter registration system
- (2) Administrative expenses for development of the state plan and the central voter registration system RFP
- (3) Education programs
- (4) Section 301 requirements (i.e. free access system, polling place postings, voter registration forms)

HAVA Requirements	Funding Source			
	Title I \$4.9 million	Title II \$21.4 million	State Match \$687,397	Local Match \$439,435
Central Voter Registration System	X	X	X	X
Accessible voting equipment		X	X	X
Administrative expenses	X	X	X	X
Voter education	X			
CEO training	X			
Poll worker training	X			
Free access system	X			
Polling place postings	X			
Voter registration forms	X			

HAVA Requirements	EAID Grant \$110,057	VOTE Grant \$100,000
Polling Place Access	X	X

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**Section 11: *How will Kansas conduct ongoing management of the plan?***

The 2003 Kansas state plan was submitted to the Federal Election Commission in September, 2003. The FEC then submitted the plan to the Election Administration Commission. Work groups provide assistance with development of proposals. The Kansas Election Reform Advisory Council will meet to reevaluate the state plan in fall 2004. Changes may be proposed to the advisory council by the secretary of state's office at that time.

▫ **Section 12: A description of the committee which participated in development of the state plan.**

In January 2003, the secretary of state appointed the Kansas Election Advisory Council to comply with Section 255. The advisory council is a committee of appropriate individuals who met on a monthly basis (February through May, 2003) to assist with development of the state plan. Secretary Thornburgh is chairman of the group and each member of the advisory council serves on one of four subcommittees.

<b>Accessibility Subcommittee</b>	Melissa Wangemann, Chair	Legal Counsel, Kansas Secretary of State's Office
	Mark Braun	Director, Kansas Office of Administrative Hearings
	Robert Bugg	Commissioner, Kansas Advisory Council on African-American Affairs
	Michael Byington	Director, Kansas Relay Service and Kansas Telecommunications Access Program
	Elias Garcia (replaced Tina DeLaRosa)	Executive Director, Kansas Hispanic and Latino and American Affairs Commission
	Anthony Fadale	Coordinator, Kansas ADA Compliance
	Martha Gabehart	Executive Director, Kansas Commission on Disability Concerns
	Brad Hamilton	Former Director, Kansas Office of Native American Affairs
	Scott Letts	Kansas Advocacy & Protective Services
	Betty Musick	Cloud County Clerk
	Pat Rahija	Wyandotte County Election Commissioner
	Patrick Terick	Director of Governmental Affairs, Cerebral Palsy Research Foundation
	Mary Tritsch	Associate State Director, AARP Kansas
<b>Finance Subcommittee</b>	Brian Henson, Chair (replaced Mindy Miller)	Legal Associate, Kansas Secretary of State's Office, Elections & Legislative Matters Division
	Randall Allen	Executive Director, Kansas Association of Counties
	Bill Gale (replaced Marilyn Chapman)	Sedgwick County Election Commissioner
	Rebecca Floyd	Executive Vice President & General Counsel, Kansas Development Finance Authority
	Randy Mettner	Special Assistant to the Governor
	Don Proffitt	Linn County Clerk
	Neil Woerman	Director of Information Technology, Office of the Insurance Commissioner
	Ryan Wright	Director of Public Affairs, Kansas Treasurer's Office

**Central Voter  
Registration  
Subcommittee**

Bryan Caskey, Chair

Cheryl Adelhardt  
Tim Blevins

Rebecca Bossemeyer  
Elizabeth Ensley  
Don Merriman  
Denise Moore  
Kathy Peckman  
Mike Stewart

Carmen Aldritt  
(replaced Sheila Walker)

Administrative Assistant, Kansas Secretary of  
State's Office, Elections & Legislative Matters  
Division  
Harper County Clerk  
Chief Information Officer, Kansas Department of  
Revenue  
Geary County Clerk  
Shawnee County Election Commissioner  
Saline County Clerk  
Director, DISC  
Miami County Clerk  
Chief Information Officer, Kansas Secretary of  
State's Office  
Director of Vehicles, Kansas Department of  
Revenue

**Voting  
Standards &  
Education  
Subcommittee**

Brad Bryant, Chair

Emily Bradbury  
Doug Anstaett (replaced Jeff  
Burkhead)  
Gail DuPuis  
Keith Lawing  
Mark Simpson  
(replaced Partick Murray in  
2004)  
Ann Havenhill  
Scott Poor  
Connie Schmidt  
Dr. Harvey Foyle  
Rich Smith  
Rich Vargo

Deputy Assistant Secretary of State, Elections and  
Legislative Matters Division  
Executive Director, Kids Voting Kansas  
Executive Director, Kansas Press Association  
  
Director, Kansas Office of Native American Affairs  
Wichita State University  
Executive Director, Kansas Democratic Party  
  
President, Kansas League of Women Voters  
Executive Director, Kansas Republican Party  
Johnson County Election Commissioner  
Emporia State University  
Assistant Attorney General  
Riley County Clerk